



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

IN REPLY REFER TO:

DIRECTOR'S ORDER NO. 182

Subject: Loss of Control and Disposal of Real Property

**Sec. 1 What is the purpose of this Order?** This Order describes the role of the Service and the State in either (a) identifying and remedying a loss of control or (2) seeking to dispose of real property. It also provides guidance on whether or not such actions constitute "Federal actions" under the National Environmental Policy Act or other Federal compliance purposes.

**Sec. 2 To whom does this Order apply?** This Order applies to all Service personnel who administer grants funded through the Sport Fish and Wildlife Restoration Programs.

**Sec. 3 What are the authorities for this Order?**

- a. 16 U.S.C. 669.
- b. 16 U.S.C. 777.
- c. 43 CFR 12.71.
- d. 50 CFR 80.4(d)(2).
- e. 50 CFR 80.14(b).

**Sec. 4 What happens when the State fish and wildlife agency loses control of real property acquired with Sport Fish or Wildlife Restoration Program funds?**

a. When such property passes from management control of the State fish and wildlife agency, the control must be fully restored to the State fish and wildlife agency or the real property must be replaced using non-Federal Assistance funds. Replacement property must be of equal value at current market prices and with equal benefits as the original property. The State may have a reasonable time, up to 3 years from the date of notification by the Service Regional Director or Manager, California/Nevada Operations Office (CNO), to acquire replacement property before becoming ineligible to participate in the Sport Fish and/or Wildlife Restoration Programs (50 CFR 80.14(b)(1).

b. Replacement of real property cannot be funded with license revenues.

c. Replacement of real property as described in section 4a must be documented in writing and entered into the Service record to demonstrate compliance with the Federal regulations.

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d. Except as noted in section 4e, any action taken under this section is not a Federal action.

e. If a grant used to acquire the real property is still open and replacement of the real property requires an amendment to the grant, then the amendment is a Federal action.

**Sec. 5 What happens when the State fish and wildlife agency seeks to dispose of real property acquired with Sport Fish or Wildlife Restoration Program funds?** Prior to disposing of real property, the following must occur:

a. The State fish and wildlife agency must determine that such real property is no longer needed or useful for its original purpose.

b. The Service Regional Director/CNO Manager must approve this determination and the State fish and wildlife agency and Service Regional Director/CNO Manager must agree to one of the three disposal methods outlined in 43 CFR 12.71(c).

c. The approval of the Service Regional Director/CNO Manager to dispose of such real property and the method for disposing of the real property constitute a Federal action.

**Sec. 6 What happens when the State fish and wildlife agency loses control or disposes of real property acquired with license revenue (no Federal funding involved)?**

a. The State fish and wildlife agency must either regain management control of the lands or replace such lands with lands of equal values and equal benefits as those originally acquired, or the license revenues must be restored to the State agency.

b. To avoid diversion, replacement of real property cannot be funded with license revenues.

c. Replacement of real property or restoration of license revenues as described in section 6a must be documented in writing and entered into the State records to demonstrate that there has been no diversion of license revenues.

d. Any action taken under this section is not a Federal action.

**Sec. 7 What is the effective date of this Order?** This Order is effective immediately. We will include the contents of this Order in Part 522 of the Fish and Wildlife Service Manual. This Order will expire on December 31, 2005, unless amended, superseded, or revoked.

  
ACTING DIRECTOR

Date: December 22, 2004